

**QUESTION AND ANSWER GUIDE FOR DSS PROVIDERS
WITH NEW HIRE HAVING
CRIMINAL OFFENDER RECORD INFORMATION (CORI) HISTORY**

1. Question: What are the significant changes in the Department of Social Services (DSS) Criminal Offender Record Checks Regulation, 110 CMR 18.00, effective 7/18/2002, for DSS operated, contracted and funded agency programs?

Answer: The significant changes in the revised DSS Regulations include:

- DSS provider must inform the Department of new hires with relevant CORI histories;
- DSS has five (5) business days from notification receipt to disapprove the hiring for hires with Table A and/or B offenses;
- Five and ten year presumptive disqualification's have been replaced with Discretionary disqualification;
- Mandatory disqualification has been replaced with lifetime presumptive disqualification;
- All positive CORI results are potentially waivable.

2. Question: Must the contracted provider notify DSS regarding new hires with relevant CORI histories regardless of the program they are assigned to?

Answer: DSS, under its revised regulations, 110 CMR 18.00, effective 7/18/2002, must be notified of proposed new hires, trainees, volunteers or interns ONLY in program(s) operated by DSS or contracted for and / or funded, in part or in total by DSS with vendor agencies that provide services for or on behalf of DSS clients. The provisions of these regulations are applicable without regard to program licensing oversight authority/responsibility or Executive Office of Health and Human Services (EOHHS) Principal Purchasing Agency (PPA) assignment(s). *Funded program(s) include those paid through direct contracts with DSS and also through DSS FamilyNet authorized service referrals.*

3. Question: What provider DSS operated, or funded program staff are to be CORI checked?

Answer: Any proposed new hire, trainee, volunteer or intern having the potential for contact with a person who is receiving or applying for services in DSS or DSS vendor agency program when no other CORI cleared employee is present. A person having only the potential for incidental unsupervised contact with clients in commonly used areas such as elevators, hallways and waiting rooms shall not be considered to have the potential for unsupervised contact for purposes of the regulations. If the person might have incidental, unsupervised client contact in a bathroom or another isolated area that is separated by sign and sound from other staff, then a CORI check should be conducted.

4. Question: Does DSS have the authority to disapprove any proposed new hire, trainee, volunteer or intern who has a relevant CORI history?

Answer: No, DSS has the authority to disapprove ONLY prospective new hire(s), including trainees, volunteers and interns, where the individual has positive Criminal Offender Record Information findings that are listed in 110 CMR 18.00: Table A and Table B.

Providers must, however, still notify DSS in writing of **all** new hires, trainees, volunteers and interns with relevant CORI Table C histories, and provide supporting documentation of its decision. DSS will be auditing provider agency waiver records of new hires with Table C positive CORI findings for compliance with DSS regulations as allowed under 110 CMR 18.11 (5).

5. Question: Do the new regulations apply to all proposed new hires, trainees, volunteers and interns of subcontractors providing services to DSS clients in DSS operated or funded programs?

Answer: Yes, the new regulations cover subcontractors and/or their employees, trainees, volunteers and interns in DSS programs operated by or funded in whole or part by DSS.

6. Question: When should the provider conduct a CORI investigation of proposed new hires, trainees, volunteers and interns?

Answer: CORI investigations are to be performed ONLY AFTER the proposed new hire, trainee, volunteer or intern has received a conditional offer for a position pending a CORI investigation. (See 110 CMR 18.07)

7. Question: When are CORI notifications to be submitted by the provider to DSS for review and possible disapproval?

Answer: CORI notifications are to be submitted after the provider has received the CORI investigation findings, conducted the review required by 110 CMR 18.11, and determined to hire the applicant. DSS must be notified *immediately* after the provider or subcontractor agency has made this decision AND has gathered the information and documentation necessary to comply with 110 CMR sections 18.10 (1) (a) and 18.11.

8. Question: How are CORI notification packages to be submitted to DSS?

Answer: CORI notifications and all required supporting documentation, as specified in 110 CMR 18.10 and 18.11, are to be submitted in written form utilizing a copy of the sample template / form included with the provider notification package. The complete* notification package, is to be sent Certified mail, with required Return Receipt, or via courier service with appropriate delivery and receipt documentation to:

Ms. Beryl Domingo
Department of Social Services
24 Farnsworth Street
Boston, MA. 02210

NOTE: Faxed or electronic transmitted notifications will not be accepted.

****Incomplete submissions will result in a decision to disapprove the hire. Incomplete waiver packages will be returned to the provider agency for completion and, at the provider agency option, resubmission and start of a new five (5) day waiting period.***

9. Question: The DSS regulations note that the DSS Commissioner has five (5) business days in which to disapprove the hire. When does the five (5) business day period begin?

Answer: The first business day of the period is the business day immediately following the receipt of the Criminal Offender Records Checks Authorization Form and **all** required supporting information and documentation as specified in 110 CMR 18.10 and 18.11. The Return Receipt card or delivery confirmation receipt provides dated proof of the delivery / DSS receipt of the materials.

10. Question: How will providers be notified that the DSS Commissioner has disapproved a hire?

Answer: Providers will be initially be notified by telephone call the DSS Commissioner's Office of decisions to **DISAPPROVE** hires within the required five (5) business day timeframe. Disapproval decisions will be followed with a written notice from the DSS Commissioner.

11. Question: Are individuals covered by these new regulations who were hired and began work between 7/18/2002 and the receipt of the new regulations and the DSS implementation guidance retroactively subject to the requirements of the new DSS regulations?

Answer: Providers do not need to notify DSS of those employees who were hired with relevant CORI histories and reported to work between 7/18/2002 and issuance of the DSS guidance.

12. Question: Must providers notify DSS regarding individuals with relevant CORI to whom they have offered a position but who have not yet started in their position(s)?

Answer: Yes, providers who have offered positions to individuals, who have not yet started but are covered by these new regulations, should immediately notify DSS utilizing the process set forth in question 8 above.

13. Question: If an individual covered by the new regulations who has Table A findings requests an assessment permitted by 110 CMR 18.10 (1) (a) (2), at the expense of the provider (hiring authority), will there be a process for the provider to be reimbursed by DSS for the resulting cost of the assessment(s)?

Answer: No, the costs associated with obtaining an assessment, as permitted under 110 CMR 18.10 (1) (a) (2) are to be paid by the hiring source.

14. Question: It is noted on the Criminal Offender Records Checks Authorization Form that documentation is to be submitted for positive CORI findings for crimes listed in Table C of the new regulations. Will new hires with such records be subject to DSS Commissioner review and disapproval?

Answer: No, DSS is requiring the submission of copies of supporting documentation for Table C findings for informational purposes only. The provider may proceed with the hiring of the individual. Providers should note, however, that DSS will be auditing provider agency waiver records of new hires with Table C positive CORI findings for compliance with DSS regulations as allowed under 110 CMR 18.11 (5).

15. Question: My agency provides contracted specialized foster care/ therapeutic foster care / adoption placement resources. Are they to be considered as “employees” and therefore covered under this new process if they are found to have positive CORI findings?

Answer: Yes, these regulations cover persons who are seeking to become or are currently operating as foster/adoptive resources. Utilization of a contracted provider foster/pre-adoptive resource for a child in DSS care or custody requires a specific authorization from DSS. A child in DSS care or custody can not be placed with a resource that has a relevant CORI history until a waiver is received from DSS.

The Department will be issuing separate guidance on the process for CORI review and waivers of those persons. For now, follow the established process for reviewing and seeking waivers for DSS contracted placement resources. Until further notice, the process will continue as currently structured with the DSS Regional Office and the Central Office Adoption Unit overseeing the gathering of information and any supporting documentation associated with the seeking and granting of waivers necessitated by the existence of CORI findings.

16. Question: To whom at DSS should additional questions or issues relative to the new DSS CORI regulation be presented?

Answer: Questions and issues associated with the new Regulations should be submitted in writing to:

Mr. Kim Sportman
Department of Social Services
24 Farnsworth Street
Boston, MA 02210
Kim.Sportman@state.ma.us

NOTE: DSS has posted a copy of its CORI regulations, this Question and Answer document and the **Provider New Hire Decision CORI Review Form** on its web site at WWW.DSSKIDS.ORG